

Notice of Allowability

Application No.

09/677,535

Examiner

Daniel S. Felten

Applicant(s)

BENT ET AL.

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/24/2006.
2. ☒ The allowed claim(s) is/are 1-5, 13-28, 30-34, 40-44, 50-66, 79-92, 99-106, 115-128, 143-150, 159-172, 187-193, 195, 197, 199, 201, 253-278, 305, 307, 309-312, 315, 316, 319-322, 324, 326, 328, 330, 333, 336, 337 and 339-362.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of

Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 10/24/2006
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.

7. ☐ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☒ Other Declaration included.

DETAILED ACTION

Request for Continued Examination after Allowance

1. A request for continued examination ("RCE") under 37 CFR 1.114, was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has not yet been paid, applicant's submission filed on October 24, 2006 has been entered.

Allowable Subject Matter

2. Claims 1-5, 13-28, 30-34, 40-44, 50-66, 79-92, 99-106, 115-128, 143-150, 159-172, 187-193, 195, 197, 199, 201, 253-278, 305, 307, 309-312, 315, 316, 319-322, 324, 326, 328, 330, 333, 336, 337 and 339-362 are allowed after Examiner's Amendment mailed April 26, 2006.

3. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not show singularly or in combination "...the manner of making said withdrawals and/or transfers from at least one of said FDIC insured and interest bearing deposit accounts preserves that account's interest-bearing status *regardless of the number of withdrawals and/or transfers* from at least one of the FDIC-insured and interest-bearing deposit accounts made during a month."

Art Unit: 3693

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-66712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DSF
11/24/2006

Daniel S Felten
Examiner
Art Unit 3693



ELLA COLBERT
PRIMARY EXAMINER

Ellis, William T.

From: Holly Pekowsky [hpekowsky@ARELAW.com]
Sent: Wednesday, October 18, 2006 12:38 PM
To: EBergan@TheR.com; Ellis, William T.
Cc: TheReserve
Subject: Request To Amend Registration (71297/35)

Attachments: Canon713C34-Exchange-10182006-111406.pdf; Canon713C34-Exchange-10182006-111207.pdf



Canon713C34-Exchange-10182006-111406.pdf



Canon713C34-Exchange-10182006-111207.pdf

Dear Ed and Bill:

Further to our recent discussions, we attach a copy of the Request To Amend Registration and Mr. Bent's Declaration which we are sending to the Trademark Office today.

Best regard <<Canon713C34-Exchange-10182006-111207.pdf>> s,

Holly Pekowsky, Esq.
Amster, Rothstein & Ebenstein LLP
90 Park Avenue
New York, NY 10016
212-336-8000 (main)
212-336-8116 (direct)
212-336-8001 (fax)
hpekowsky@arelaw.com (e-mail)

This e-mail transmission and any attachments are intended only for the party to whom it is addressed and may contain privileged or confidential information. If you are not the intended recipient, you are hereby notified that any use, dissemination or copying of this e-mail is prohibited. If you have received this e-mail in error, please contact the sender immediately by return e-mail or by telephone (212-336-8000) and delete all copies of the material. Thank you.

O.K.
To Bnle
11/24/06
js

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Registrant : Reserve Management Corporation

Reg. No. : 2,694,910

Registered : March 11, 2003

Mark : RESERVE INSURED DEPOSITS

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

"Express Mail" mailing label No.: EV 591328211 US

Date of Deposit: October 18, 2006

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Name: Ruth Artis-McLeod

Signature: Ruth Artis-McLeod

DECLARATION OF BRUCE BENT II

BRUCE BENT II declares:

1. I am the Vice Chairman and President of Registrant, Reserve Management Corporation, a New Jersey Corporation with a principal place of business at 1250 Broadway, New York, NY 10001 ("Registrant"), and am authorized to make this Declaration on behalf of Registrant. Except where indicated otherwise, I make this Declaration based on personal knowledge.

2. I understand from my attorney that the date of first use and first use in commerce recited in the above-identified registration (the "Registration") is October 9, 1997. My attorney has advised me that the terms "first use" and "first use in commerce" generally mean the date the services listed in an application were first used or displayed in the sale or advertising of services and the services were rendered in commerce. Based on this understanding, I believe the dates of first use and first use in commerce recited in the Registration in connection with the RESERVE INSURED DEPOSIT mark (the "Mark") are inaccurate.

3. Beginning on October 9, 1997, Registrant performed computer tests for the services listed in the Registration, namely, financial services, namely, providing insured money market account services (the "Services"). The Services were provided to internal corporate accounts, not real customers. Registrant did not provide the Services to any real customers on that date, nor were the Services even offered for sale or advertised on that date. A ledger documenting transactions involving the Services is annexed hereto as Exhibit 1.¹ The transactions for October 9, 1997, as well as several other dates, are internal corporate transactions. All the transactions listed with "BRES" as the AGN ID are internal corporate transactions. These types of test runs are typical of how Registrant launches all new products.

4. My attorney has also advised me that to be prudent, Registrant should list as the dates of first use and first use in commerce the earliest date for which Registrant can document use of the Mark in connection with the Services.

5. As evidenced from the ledger of Exhibit 1, Registrant's first customer for the Services opened his account on October 23, 1997 and performed his first transaction on October 24, 1997. However, Registrant does not have any documents confirming that the Mark was used in connection with the Services at that time, and therefore, my attorney has advised me that Registrant should not seek to list this date as the dates of first use and first use in commerce.

6. Registrant has in its files a copy of an advertisement which ran in a newsmagazine dated December, 1997 in which the Mark is used in connection with the Services. A copy of the advertisement is annexed hereto as Exhibit 2. Registrant's staff

¹ The names of customers who are individuals, as well as all customer ID's have been redacted for confidentiality reasons.


has, at my instruction, inspected Registrant's transaction records for the Services and those records confirm that there are no documents which evidence use of the Mark in commerce before this date. My attorney has advised me that, based on the foregoing, we should list as early as December, 1997 as the dates of first use and first use in commerce.

7. Although I do not have a specific recollection as to why October 9, 1997 was listed as the dates of first use and first use in commerce, I believe it was based upon a misunderstanding on the part of the person completing the trademark application for the Mark as to what occurred on that date (testing rather than actual sales).

8. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further, these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

BRUCE BENT II

Date: Oct 17, 2006



FA/FB ACCOUNT 1997 FIRST TRANSACTIONS

TRX TYPES: PU, PP,TA,PT

FIRST TRX	OPEN DATE	CUST ID	AGN ID	TAX NAME	PORT CODE
1997-10-09	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSITS (RETA	FA
1997-10-09	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSIT (BROKE	FB
1997-10-24	1997-10-23	[REDACTED]	RSV	[REDACTED]	FA
1997-10-28	1997-10-27	[REDACTED]	RSV	[REDACTED]	FA
1997-10-31	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSIT (RETAIL	FA
1997-10-31	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSIT (RETAIL	FA
1997-11-17	1997-11-14	[REDACTED]	RSV	WEST LAKE CORPORATION	FA
1997-11-18	1997-11-18	[REDACTED]	RSV	[REDACTED]	FA
1997-11-18	1997-11-18	[REDACTED]	RSV	[REDACTED]	FA
1997-11-19	1997-11-18	[REDACTED]	RSV	[REDACTED]	FA
1997-11-20	1997-08-19	[REDACTED]	RSV	[REDACTED]	FA
1997-11-20	1997-11-19	[REDACTED]	RSV	[REDACTED]	FA
1997-11-28	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSIT (RETAIL	FA
1997-11-28	1997-11-28	[REDACTED]	BREF	[REDACTED]	FA
1997-12-03	1997-12-01	[REDACTED]	RSV	[REDACTED]	FA
1997-12-03	1997-12-02	[REDACTED]	BINC	[REDACTED]	FB
1997-12-05	1997-12-05	[REDACTED]	RSV	[REDACTED]	FA
1997-12-10	1997-12-08	[REDACTED]	BREF	[REDACTED]	FA
1997-12-12	1997-12-11	[REDACTED]	RSV	[REDACTED]	FA
1997-12-15	1997-12-08	[REDACTED]	BINC	[REDACTED]	FB
1997-12-17	1997-11-17	[REDACTED]	BINC	[REDACTED]	FB
97-12-19	1997-12-18	[REDACTED]	BINC	[REDACTED]	FB
1997-12-19	1997-12-18	[REDACTED]	BINC	[REDACTED]	FB
1997-12-23	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSIT (BROKE	FB
1997-12-29	1997-12-24	[REDACTED]	RSV	[REDACTED]	FA
1997-12-31	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSIT (BROKE	FB
1998-01-05	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSIT (RETAIL	FA
1998-02-20	1997-05-19	[REDACTED]	RSV	[REDACTED]	FA
1998-03-03	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSIT (BROKE	FB
1998-03-04	1997-10-09	[REDACTED]	BRES	RESERVE INSURED DEPOSIT (BROKE	FB
1998-06-24	1997-10-08	[REDACTED]	BBRY	[REDACTED]	FB
2001-01-26	1997-01-23	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-03-14	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-04-21	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-28	1997-05-27	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-05-28	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-06-05	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-07-09	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-08-13	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-08-18	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-08-21	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-09-09	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-10-17	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-11-04	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-11-05	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-11-21	[REDACTED]	BDLA	DELAWARE CHARTER GUARANTEE &	FB

REDACTED

FIRST TRX	OPEN DATE	CUST ID	AGN ID	TAX NAME	PORT CODE
2001-01-26	1997-12-05	[REDACTED]	BOLA	DELAWARE CHARTER GUARANTEE &	FB
2001-01-26	1997-12-05	[REDACTED]	BOLA	DELAWARE CHARTER GUARANTEE &	FB
2001-03-15	1997-07-03	[REDACTED]	RSV	[REDACTED]	FA
2001-09-20	1997-01-10	[REDACTED]	BFER	[REDACTED]	FB
2001-09-20	1997-03-07	[REDACTED]	BFER	FERRIS BAKER WATTS	FB
2001-09-20	1997-07-30	[REDACTED]	BFER	FERRIS BAKER WATTS	FB
2001-09-20	1997-07-30	[REDACTED]	BFER	FERRIS BAKER WATTS	FB
2001-09-21	1997-01-03	[REDACTED]	BFER	FERRIS BAKER WATTS	FB
2001-09-21	1997-09-30	[REDACTED]	BOLA	DELAWARE CHARTER GUARANTEE &	FB
2001-09-25	1997-04-18	[REDACTED]	BOLA	[REDACTED]	FB
2001-09-25	1997-04-18	[REDACTED]	BOLA	[REDACTED]	FB
2001-10-09	1997-03-04	[REDACTED]	BBRY	[REDACTED]	FB
2003-06-05	1997-09-09	[REDACTED]	BAME	[REDACTED]	FB
2003-06-19	1997-04-14	[REDACTED]	BAME	[REDACTED]	FB
2003-08-13	1997-12-08	[REDACTED]	BAME	[REDACTED]	FB

REDACTED

BEST AVAILABLE COPY

1993 after proposed reform sent stocks plunging, and he took advantage of temporarily depressed prices in technology in 1994 and earlier this year. "Growth stocks are very attractive when people throw in the towel," he says.

The manager pinpoints the start of the current upswing in small-caps to the capital gains tax cut. It gives people the incentive to invest for the long term, and that usually moves folks into the secondary and tertiary stocks."

McCrackard is bullish on small companies. He can afford to be with a fund that has beaten the Russell 2000 index of small-cap stocks 189% to 143% during his tenure. Better still, this fund bucks the law of av-

erages by providing plenty of downside protection, as evidenced by its above-average "B" Down Market Rank.



Gregory McCrackard

Sector Sensation

Most sector funds quickly go in and out of vogue. A few—very few—just go up and up and up. In 1996 and 1997, we picked Fidelity Select Regional Banks as our sector favorite. (It's doubled over the two-year period.) This year, we stay in the same sector, but pick a different fund—closed-end Southeastern Thrift and Bank. It's also

Stanley

Sleep Easy

Franklin Mutual Beacon (800-553-3014) traverses the roads-less-traveled. This growth-and-income offering yields 3.1%, twice as much as the S&P 500, and tops the average equity fund over any long-term performance period you care to name. Overall portfolio volatility that is consistently only half as great as the S&P 500, coupled with above-average returns, earns the fund virtually perpetual Five-Star status. Equally alluring in the current volatile climate is an "A" Down Market rank. Bottom line: Beacon is an ideal vehicle for conservative equity investors.

For portfolio manager Michael Price, buying "cheap" stocks means paying fifty or sixty cents for a dollar of value. With a skill that is the envy of competing portfolio managers, Price assesses value through fundamental measures, including tangible assets, earnings, and cash flows. He doesn't make investment decisions based on market calls; security selection is a purely "bottom-up" company-by-company scrutiny of underlying value. The goal, and the result: Superior risk-adjusted returns.

Forgetting for value often leads Price to obscure securities overlooked by the Wall Street masses. The fund owns companies involved in mergers, turnarounds, reorganizations, even bankruptcies. And when domestic equities move too far too

IT'S 1997, DO YOU KNOW WHERE YOUR INTEREST IS?

Close your bank account! Reserve, founders of the world's first money market fund, is proud to announce the world's first FDIC insured money market account with free, unlimited, no minimum checking.

The Reserve Insured Deposits Account:

- high interest (4.40% as of 10/17/97)
- free, unlimited, no minimum checking
- free payee capture
- VISA Gold Check Card with 1% cash back (\$10 annual fee)
- ATM access at over 250,000 locations worldwide (no fee from Reserve)
- Internet access for account and yield information
- Home banking via Reserve's web site
- \$5,000 minimum opening balance

4.40%
as of 10/17/97

Call Up The Reserves today at 800-637-1700

www.reservefunds.com

It pays to keep money in Reserve, SM



Bruce Ward
PRESIDENT
THE RESERVE FUNDS
FOUNDERS OF
"AMERICA'S FIRST
MONEY FUND"
EST. 1970

46 MUTUAL FUNDS • DECEMBER 1997

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Registrant : Reserve Management Corporation
Reg. No. : 2,694,910
Registered : March 11, 2003
Mark : RESERVE INSURED DEPOSITS

"Express Mail" mailing label No.: EV591328211US
Date of Deposit: October 18, 2006

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Name: Ruth Artis-McLeod

Signature: Ruth Artis-McLeod

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

**REQUEST TO AMEND REGISTRATION
PURSUANT TO T.M.E.P. § 1609.07 TO CHANGE
DATES OF FIRST USE AND FIRST USE IN COMMERCE**

Pursuant to T.M.E.P. § 1609.07, Registrant Reserve Management Corporation ("Registrant") respectfully requests that the Patent and Trademark Office issue a new Certificate of Registration amending the dates of first use and first use in commerce from October 9, 1997 to at least as early as December 31, 1997, and update the records of the Patent and Trademark Office to reflect the new dates.

I. Argument

The Trademark Manual of Examining Procedure allows a registrant to amend the dates of first use and first use in commerce recited in its registration under certain circumstances. T.M.E.P. § 1609.07. Specifically, the owner of a registration which was filed on the basis of use can amend the dates of first use and first use in commerce provided that the amended dates are later than the filing date of the original application. *See id.* ("The USPTO will accept an amendment changing the dates of use, even if the amended dates are later than the dates originally set forth in the registration ...

However, . . . If the application for the registration was based on use in commerce . . . , the registration cannot be amended to specify a date of use that is later than the application filing date.”).

In the instant case, Registrant seeks to amend the dates of first use and first use in commerce from October 9, 1997 to at least as early as December 31, 1997. As explained in the accompanying Declaration of Registrant's Vice Chairman and President, Bruce Bent II (the “Bent II Decl.”), the December 31, 1997 date is the earliest date for which Registrant is certain that the services listed in the Registration - financial services, namely, providing insured money market account services (the “Services”) - were rendered in commerce in connection with the RESERVE INSURED DEPOSITS Mark. Bent Decl. at Par. 6.

The date of first use and first use commerce currently recited in the Registration - October 9, 1997, is inaccurate. As indicated in Mr. Bent's Declaration, although a test account was opened on this date, the Services were not rendered to an actual customer on this date. *Id.* at Par. 3. The inaccurate date was the result of a good faith mistake. *See Id.* at Par. 7.

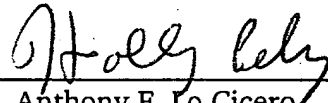
Since the Registration was filed on September 21, 2001, the new date Registrant proposes to use is still well before the filing date, and therefore, is acceptable pursuant to T.M.E.P. § 1609.07. Accordingly, it is respectfully requested that the dates of first use and first use in commerce be amended from October 9, 1997 to at least as early as December 31, 1997.

Pursuant to T.M.E.P. § 1609.01(b), Registrant is enclosing, in addition to Mr. Bent's Declaration, a check in the amount of \$100 to cover the cost of issuing the new Certificate. Please charge any deficiency to our Deposit Account No. 01-1785.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Registrant
90 Park Avenue
New York, New York 10016
(212) 336-8000

Dated: New York, New York
October 18, 2006

By: 
Anthony F. Lo Cicero
Holly Pekowsky